CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Aliza Klingenstein	Team: Squad #16	CCRB Case #: 202104737	☐ Force ☑ Abuse	☐ Discourt. ☐ O.L.	☐ U.S. ☐ Injury

Incident Date(s) Wednesday, 06/23/2021 3:30 PM, Thursday, 07/29/2021 1:00 PM	Location of Incident: § 87(2)(b) and over the telephone		Precinct: 06	18 Mo. SOL 12/23/2022	EO SOL 12/23/2022
Date/Time CV Reported Tue, 08/10/2021 8:34 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Tue, 08/10/2021 8:34 PM		

Complainant/Victim	Type	Home Address
████████	███	████████████

Witness(es)		Home Address
████████		████████████
████████		████████████

Subject Officer(s)	Shield	TaxID	Command
1. PO Michael Collarini	01165	953767	006 DET
2. DT3 Elvis Montalvo	00478	945257	INT EPU

Officer(s)	Allegation	Investigator Recommendation
A. PO Michael Collarini	Abuse: On June 23, 2021, at § 87(2)(b) in Manhattan, Police Officer Michael Collarini stopped § 87(2)(b) ████	███████
B. DT3 Elvis Montalvo	Abuse: On June 23, 2021, at § 87(2)(b) in Manhattan, Detective Elvis Montalvo stopped § 87(2)(b) ████	███████
C. PO Michael Collarini	Abuse: On June 23, 2021, at § 87(2)(b) in Manhattan, Police Officer Michael Collarini questioned § 87(2)(b) ████	███████
D. DT3 Elvis Montalvo	Abuse: On June 23, 2021, at § 87(2)(b) in Manhattan, Detective Elvis Montalvo questioned § 87(2)(b) ████	███████
E. PO Michael Collarini	Abuse: On June 23, 2021, at § 87(2)(b) in Manhattan, Police Officer Michael Collarini took photographs of § 87(2)(b) ████	███████
F. PO Michael Collarini	Abuse: On June 23, 2021, at § 87(2)(b) in Manhattan, Police Officer Michael Collarini failed to provide § 87(2)(b) with a business card.	███████
§ 87(4-b), § 87(2)(g) ████	████████████████	███████
§ 87(4-b), § 87(2)(g) ████	████████████████	███████
I. PO Michael Collarini	Abuse: On July 29, 2021, over the telephone, Police Officer Michael Collarini threatened to arrest § 87(2)(b) ████	███████

On August 10, 2021, § 87(2)(b) ▮▮▮▮▮▮ filed this complaint via the CCRB on-line website.

On June 23, 2021, at approximately 3:30 p.m., at § 87(2)(b) ▮▮▮▮▮▮ in Manhattan, Police Officer Michael Collarini (who has since been promoted to the rank of Detective) of the 6th Precinct Detective Squad and Detective Elvis Montalvo, who was assigned to the 6th Precinct Detective Squad at the time of this incident but has since been assigned to Executive Protection, stopped (**Allegations A and B: Abuse of Authority,** § 87(2)(g) ▮) and questioned (**Allegations C and D: Abuse of Authority,** § 87(2)(g) ▮) § 87(2)(b) ▮ in regards to an open robbery investigation. PO Collarini photographed § 87(2)(b) ▮ (**Allegation E: Abuse of Authority,** § 87(2)(g) ▮). § 87(2)(b) ▮ requested PO Collarini's business card, and Det. Montalvo handed PO Collarini one of his business cards for PO Collarini to write down his information. PO Collarini omitted his shield number when he wrote his information on Det. Montalvo's business card and handed it to § 87(2)(b) ▮ (**Allegation F: Abuse of Authority,** § 87(2)(g) ▮).

§ 87(4-b), § 87(2)(g)

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On July 29, 2021, at approximately 1:00 p.m., over the telephone, PO Collarini threatened to arrest § 87(2)(b) ▮ if he did not turn himself in (**Allegation I: Abuse of Authority,** § 87(2)(g) ▮).

This case was originally assigned to former Investigator Matthew Donaghy, and upon their departure from the CCRB the case was reassigned to Investigator Aliza Klingenstein on June 02, 2022.

The CCRB is not in possession of video evidence related to this incident. § 87(2)(b) ▮ took audio recordings on both incident dates that he provided to the investigation (**Board Review 01-03**).

Findings and Recommendations

Allegation (A) Abuse of Authority: On June 23, 2021, at § 87(2)(b) ▮ **in Manhattan, Police Officer Michael Collarini stopped** § 87(2)(b) ▮
Allegation (B) Abuse of Authority: On June 23, 2021, at § 87(2)(b) ▮ **in Manhattan, Detective Elvis Montalvo stopped** § 87(2)(b) ▮
Allegation (C) Abuse of Authority: On June 23, 2021, at § 87(2)(b) ▮ **in Manhattan, Police Officer Michael Collarini questioned** § 87(2)(b) ▮.
Allegation (D) Abuse of Authority: On June 23, 2021, at § 87(2)(b) ▮ **in Manhattan, Detective Elvis Montalvo questioned** § 87(2)(b) ▮
Allegation (E) Abuse of Authority: On June 23, 2021, at § 87(2)(b) ▮ **in Manhattan, Police Officer Michael Collarini took photographs of** § 87(2)(b) ▮
Allegation (F) Abuse of Authority: On June 23, 2021, at § 87(2)(b) ▮ **in Manhattan, Police Officer Michael Collarini failed to provide** § 87(2)(b) ▮ **with a business card.**

§ 87(2)(b) ▮ testified that on June 23, 2021, he was working as a concierge at § 87(2)(b) ▮ ▮ in Manhattan when he was instructed to report to the building office (**Board Review 04**). There, § 87(2)(b) ▮ met the head of building security, § 87(2)(b) ▮ (unknown first name), along with PO Collarini and Det. Montalvo. PO Collarini and Det. Montalvo stated they were

investigating an incident that occurred on December 04, 2020, near §87(2)(b)   PO
Collarini and Det. Montalvo stated the incident perpetrator used a MetroCard at the West 4th Street
subway station, which was found to be associated with §87(2)(b)   debit card. PO Collarini
asked §87(2)(b)   about the MetroCard he used and where he was on December 04, 2020. §
§87(2)(b)   stated that he used a weekly MetroCard that he sometimes discarded after using, which
could explain the MetroCard connection, and that he went directly home after work. Either PO
Collarini or Det. Montalvo asked §87(2)(b)   if he had any altercations with anyone, and §
§87(2)(b)   said no. PO Collarini showed §87(2)(b)   a photograph of the suspect and told §
§87(2)(b)   it resembled him. §87(2)(b)   agreed that the man resembled him, but he stated the
photograph was not of him. PO Collarini used his cellphone to photograph §87(2)(b)   from the
front, back, left, and right sides. PO Collarini and Det. Montalvo then stated they would continue
their investigation and began to leave. §87(2)(b)   asked PO Collarini if he had a business card,
and PO Collarini stated he ran out. Det. Montalvo handed PO Collarini one of his business cards,
and PO Collarini wrote his name, rank, phone number, and command on the back of the card before
handing it to §87(2)(b)   On the front of the business card was Det. Montalvo's name, rank,
phone number, and command. PO Collarini and Det. Montalvo then left the scene.

§87(2)(b)   provided a photograph of the business card he received during the incident (**Board
Review 05**). Pre-printed on front of the card is Det. Montalvo's name, rank, command, and contact
information. Handwritten on the back of the card is PO Collarini's name, rank, phone number, and
command. The card does not contain either officer's shield number.

§87(2)(b)   provided an audio recording from the meeting on June 23, 2021 (**Board Review 01**).
The recording captures PO Collarini and Det. Montalvo asking §87(2)(b)   questions regarding
§87(2)(b)   potential involvement in the alleged robbery.

PO Collarini testified that at the time of this incident, he was the lead investigator assigned to a
robbery case that occurred around December of 2020 at Waverly Place and Gay Street in
Manhattan (**Board Review 06**). To identify the suspect, prior to the date of this incident, PO
Collarini canvassed the area for surveillance footage, which captured the suspect entering the West
4th Street subway station after completing the robbery. PO Collarini then obtained MTA footage
from Transit SIU that captured the suspect swiping a MetroCard through a turnstile in the station
prior to successfully fleeing the scene. Transit SIU also provided MetroCard identification numbers
from all MetroCards that were swiped at the West 4th Street subway station within a specific
timeframe. Transit SIU then determined how many of those MetroCards were purchased using a
credit card, and PO Collarini sent subpoenas to various banks to obtain the names of all individuals
associated with the sample of credit cards. One of the names was §87(2)(b)   and when PO
Collarini searched §87(2)(b)   in the NYPD database, he obtained a photograph of §
§87(2)(b)   from his previous arrest. PO Collarini determined that §87(2)(b)   resembled the
robbery suspect captured on MTA footage based on his sex, skin complexion, build, and height.
From the bank information, PO Collarini discovered that §87(2)(b)   received direct deposit
payments every two weeks from a sender with the address §87(2)(b)   in Manhattan.
From searching this address, PO Collarini determined §87(2)(b)   worked near the scene of the
robbery. At this point in the investigation, PO Collarini was unsure if §87(2)(b)   was a suspect
or witness, but PO Collarini considered §87(2)(b)   a "person of interest" whom PO Collarini
wanted to meet. PO Collarini then obtained the phone number for the manager of §87(2)(b)
      and arranged a meeting to speak with §87(2)(b)

On June 23, 2021, PO Collarini and Det. Montalvo spoke to §87(2)(b)   to gather information
about the case in the hopes of determining §87(2)(b)   involvement in the alleged crime. PO
Collarini used his Department-issued cellphone to photograph §87(2)(b)   to be able to compare

appearance to any additional photographs of the suspect he obtained later in the investigation. requested PO Collarini's business card, but PO Collarini had forgotten his business cards in his office that day and did not have any on his person. To remedy this, PO Collarini wrote down his name on Det. Montalvo's business card and handed it to PO Collarini did not recall if he provided any other information on the card. PO Collarini did not recall what information an officer's business card was required to contain.

Det. Montalvo testified that on June 23, 2021, PO Collarini asked Det. Montalvo to accompany him to interview a possible suspect in one of PO Collarini's cases (**Board Review 07**). Prior to this, Det. Montalvo had no familiarity with and he did not know how PO Collarini identified Det. Montalvo was present for the interview, but he did not recall anything that was stated. PO Collarini did not have any business cards with him to give so Det. Montalvo offered his business card for PO Collarini to write on. Det. Montalvo did not know when he was issued the business card he provided at the time of this incident and stated his card could have been nine years old, as he had been assigned to the 6th Precinct Detective Squad for nine years at the time of this incident. Det. Montalvo did not know if officers' business cards were required to contain their shield number.

The DD5s for case # show that PO Collarini's testimony is wholly consistent with the documented steps he took to identify before the meeting on June 23, 2021 (**Board Review 08**). Included in the DD5s is a suspect I-Card for that was activated on April 16, 2021 (page 92) and canceled on July 29, 2021 (page 109). Photographs of are attached to PO Collarini's interview report from the meeting on June 23, 2021 (page 102).

During street encounters, officers may ask an individual accusatory questions if they have founded suspicion of a crime, and they may stop the individual if they have reasonable suspicion of a crime, People v. De Bour, 40 N.Y.2d 210 (**Board Review 09**).

NYPD Operations Order 20 permits officers to use their department-issued smartphones to take photographs for department business, including "all enforcement encounters where there is at least reasonable suspicion the person(s) has committed, is committing, or may be involved in criminal activity" (**Board Review 10**).

The Right to Know Act, NYC Administrative Code 14-174 requires officers to offer civilians a business card at the conclusion of noncustodial questioning of individuals suspected of criminal activity, as well as pedestrian stops where officers have reasonable suspicion of a crime. The Act states, "Any business cards used by an officer to identify himself or herself to a person who is the subject of law enforcement activity shall be pre-printed and include, at a minimum: 1. The name, rank, shield number, and a space to write in the command of such officer" (**Board Review 11**).

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§ 87(2)(g)

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As shown in the photograph provided by § 87(2)(b) ███████ PO Collarini did not include his shield number in the information he wrote down on Det. Montalvo's business card, § 87(2)(g) ██ ██ ████████████████████████

§ 87(4-b), § 87(2)(g) ██████████████████████████ ██ ████████████████████████████████████ ████████████████████████████████████ ██ ████████████████████

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Allegation (I) Abuse of Authority: On July 29, 2021, over the telephone, Police Officer Michael Collarini threatened to arrest § 87(2)(b) ████████

§ 87(2)(b) ████████ testified that on July 29, 2021, he received a phone call from PO Collarini, who stated that he had probable cause to issue a warrant for § 87(2)(b) ████████ arrest (**Board Review 04**). PO Collarini then stated if § 87(2)(b) ████████ did not turn himself in, PO Collarini would tell the Warrant Squad to arrest § 87(2)(b) ████████ at his job or home. § 87(2)(b) ████████ agreed to meet PO Collarini at the 6th Precinct stationhouse to be cooperative, but § 87(2)(b) ████████ stated he would not be turning himself in, and the phone call ended. Approximately 30 minutes later, PO Collarini called § 87(2)(b) ████████ again. PO Collarini stated that he reviewed evidence of the incident, determined § 87(2)(b) ████████ was no longer the suspect, and promised not to investigate § 87(2)(b) ████ further.

§ 87(2)(b) ████████ provided an audio recording he took during his phone call with Det. Collarini on July 29, 2021 (**Board Review 03**). At 5:29, PO Collarini states, "If you're not willing to turn yourself in, I'm going to put the warrant out for your arrest, and the Warrant Squad is going to grab

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you, either at your house, or at your job." At 5:52, PO Collarini continues, "Either way, you're getting arrested."

PO Collarini testified that after seeing ██ § 87(2)(b) ██ in person on June 23, 2021, his belief was confirmed that § 87(2)(b) ██ closely resembled the suspect captured on MTA footage (**Board Review 06**). Because of this, § 87(2)(b) ██ went from being a potential suspect, to a suspect, in PO Collarini's investigation. On July 29, 2021, at approximately 1:00 p.m., PO Collarini called § 87(2) ██ and stated that if § 87(2)(b) ██ did not turn himself in, PO Collarini had probable cause to arrest him. However, after the phone call, PO Collarini reviewed additional MTA footage and noticed a different individual who he believed more closely resembled the suspect. PO Collarini called § 87(2)(b) ██ back, apologized for the mistake, and ended his investigation into § 87(2) ██ § 87(2)(b) ██ as the suspect of his investigation.

<u>NYPD Patrol Guide</u> Procedure 208-01 states that an officer may effect an arrest without a warrant for a crime when reasonable cause exists that the arrested person committed the crime (**Board Review 13**).

§ 87(2)(g)

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Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) ██ has been a party.
- PO Collarini has been a member of service for nine years and has been a subject in one other CCRB complaint and two other allegations, one of which was substantiated:
    - 201802628 involved one substantiated allegation of a frisk against PO Collarini. The Board recommended Command Discipline A and the NYPD imposed Formalized Training.
- Det. Montalvo has been a member of service for 14 years and has been a subject in one other CCRB complaint and one allegation, which was not substantiated. § 87(2)(g) ██ ██████████████████████████

Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.
- As of June 22, 2022, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards to this incident (**Board Review 14**).
- § 87(2)(b) ██████████████████████████████
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Squad: _____16_____

Investigator: <u>Inv. Klingenstein</u>   <u>Inv. Aliza Klingenstein</u>   <u>July 07, 2022</u>
                        Signature   Print Title & Name   Date

Squad Leader: <u>Patrick Yu</u>   <u>IM Patrick Yu</u>   <u>07/07/2022</u>
                        Signature   Print Title & Name   Date

Reviewer: <u>   </u>   <u>   </u>   <u>   </u>
                        Signature   Print Title & Name   Date